

SENATE BILL 2874

By Atchley

AN ACT to amend Tennessee Code Annotated, Sections 8-34-620(6) and 8-35-111; and Title 8 Chapter 35, Parts 1 and 2, relative to the Tennessee Consolidated Retirement System.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-34-620(6), is amended by deleting the same in its entirety and by substituting instead the following:

(6) The member shall make a lump sum payment equal to:

(A) If the previous service was rendered on or before June 30, 2000, (i) the sum the member would have contributed had the member been a member during such period of out-of-state service, (ii) plus the employer contributions which would have been made in accordance with the contribution rates in effect during the period in which the service was rendered, (iii) plus interest on both at the rate provided by § 8-37-214.

(B) If the previous service was rendered after June 30, 2000, (i) a sum equal to ten percent (10%) of the member's earnable compensation during such period of out-of-state service, (ii) plus interest at the rate provided by § 8-37-214.

SECTION 2. Tennessee Code Annotated, Section 8-35-111(a), is amended by deleting the words “same compensation and for the same years of service” and by substituting instead the words “same period of service”.

SECTION 3. Tennessee Code Annotated, Section 8-35-111(b)(3), is amended by deleting the figure “401(k)” wherever the same appears and by substituting instead the figures and punctuation “401(k), 401(a)”.

SECTION 4. Tennessee Code Annotated, Section 8-35-111(b)(3)(A), is amended by deleting the same in its entirety and by substituting instead the following:

All 401(k), 403(b) and 457 plans established by public employers participating in the state retirement system, wherein employer contributions are made, must be approved by the director of the state retirement system.

SECTION 5. Tennessee Code Annotated, Section 8-35-111(c), is amended by deleting the words “same service and compensation” and by substituting instead the words “same service”.

SECTION 6. Tennessee Code Annotated, Title 8, Chapter 35, Part 1, is amended by adding the following as a new, appropriately designated section:

8-35-1\_\_\_. (a) Any member who is separated from service for reasons other than retirement or death may elect to forfeit all contributory and noncontributory service established by such member under chapters 34 – 37 of this title for the purpose of establishing such service in another state, federal, county or municipal retirement program.

(b) To be effective, the following conditions must be met:

(1) The member must not have received any retirement benefits based upon such service;

(2) The service must be creditable in the other retirement program;

(3) If any of the service is contributory service, the member must have taken a refund of the member's accumulated contributions pursuant to § 8-37-210;

(4) The member must forfeit all service established under chapters 34 – 37 of this title; and

(5) The member must sign and file with the retirement division a form whereon the member acknowledges that by forfeiting the service, the member shall not be entitled to reestablish the service in the retirement system pursuant to § 8-37-214 so long as the member is entitled to retirement credit for such service in the other retirement program.

(c) A forfeiture of service made pursuant to this section shall terminate membership in the retirement system in accordance with the provisions of § 8-35-104 and shall constitute a waiver of all rights in the retirement system on account of the service forfeited.

SECTION 7. Tennessee Code Annotated, Title 8, Chapter 35, Part 2, is amended by adding the following as a new, appropriately designated section:

8-35-2\_\_\_. Except as otherwise expressly provided by law, should any department, agency or instrumentality of a participating political subdivision become a separate local governmental entity from the political subdivision, the employees of such entity shall not be entitled to future membership in the retirement system on account of continued service with the entity unless the chief governing body of the entity elects to become a participating employer pursuant to § 8-35-201. Upon such election, the chief governing body of the political subdivision may request the retirement system to have an actuarial study conducted to determine the share of the assets of the retirement system attributable to contributions of the political subdivision which would be needed for the entity to maintain a comparable employer contribution rate or funding level as the political subdivision. Upon receipt of the actuarial study, the chief governing body of the political subdivision shall have the authority to pass and file with the retirement system a

resolution requesting that such amount be transferred from the credit of the political subdivision to the entity. Any amount so transferred shall be used to pay the annuities of the entity's employees and shall be considered assets of the entity for all other purposes pursuant to the provisions of chapters 34-37 of this title.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.